

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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THOMAS WRAY HERNDON,

Petitioner,

v.

DWIGHT NEVEN, *et al.*,

Respondents.

Case No. 3:20-cv-00489-MMD-CLB

ORDER

Petitioner Thomas Herndon, a Nevada state prisoner, has submitted a *pro se* petition for writ of *habeas corpus* under 28 U.S.C. § 2254. (ECF No. 1) This habeas matter is before the Court for consideration of Petitioner's application to proceed *in forma pauperis* (IFP). (ECF No. 5.)

Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. A federal district court may authorize a person to begin an action without prepaying fees and costs if the person submits an IFP application on the approved form along with the appropriate supporting documentation. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

Although Petitioner submitted the required form, the supporting documents show Petitioner is able to pay the \$5.00 filing fee. Thus, Petitioner does not qualify for a fee waiver. The Court therefore denies Petitioner's IFP application and gives him 45 days to pay the filing fee.¹

It is therefore ordered that Petitioner's application to proceed *in forma pauperis* (ECF No. 5) is denied.

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¹On October 11, 2020, Petitioner notified the Court that he has already submitted a brass slip to prison officials to pay the \$5.00 filing fee.

1 It is further ordered that Petitioner must pay the \$5.00 filing fee by November 30,
2 2020.

3 The Clerk of Court is directed to mail Petitioner *two* copies of this order. If possible,
4 Petitioner should arrange to have a copy of this order attached to the check for the filing
5 fee.

6 The initial screening of the petition for writ of *habeas corpus* (ECF No. 1-1) under
7 the Rules Governing Section 2254 Cases and consideration of Petitioner's motion for
8 appointment of counsel (ECF No. 4) are deferred until such time as Petitioner has fully
9 complied with this order.

10 Failure to timely comply with this order will result in the dismissal of this action
11 without further advance notice.

12 DATED THIS 16th Day of October 2020.

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16 MIRANDA M. DU
17 CHIEF UNITED STATES DISTRICT JUDGE
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